

REMARKS

Claims 1-18 are pending in the Application. Claim 12 is objected to. Claims 1 and 10 are rejected under 35 U.S.C. §102(e). Claims 2-9 and 11-18 are rejected under 35 U.S.C. §103(a). Applicant respectfully traverses these rejections for at least the reasons stated below and respectfully requests that the Examiner reconsider and withdraw these rejections.

Applicant notes that claim 12 was not amended to overcome prior art but to correct a typographical mistake. Hence, no prosecution history estoppel arises from the amendment to claim 12. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendment made to claim 12 was not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such an amendment. See *Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

I. OBJECTIONS TO THE CLAIMS:

The Examiner objects to claim 12 for not including a period at the end of the claim. Applicant amended claim 12 by including a period at the end of the claim. Consequently, Applicant respectfully requests the Examiner to withdraw the objection to claim 12.

II. REJECTIONS UNDER 35 U.S.C. §102(e):

The Examiner has rejected claims 1 and 10 under 35 U.S.C. §102(e) as being anticipated by Zak (U.S. Patent No. 6,690,003). Applicant respectfully traverses these rejections for at least the reasons stated below and respectfully requests that the Examiner reconsider and withdraw these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131.

Applicant respectfully asserts that Zak does not disclose "the receiver module further comprising a timer operatively associated with the receiver module to selectively limit the time of actuation of such an apparatus in response to the laser light signal" as recited in claim 1 and similarly in claim 10. The Examiner cites column 3, lines 17-21 of Zak as disclosing the above-cited claim limitation. Paper No. 3, page 3. The Examiner further cites element 30 of Zak (power relay) as disclosing a timer. Paper No. 3, page 2. Applicant respectfully traverses and asserts that Zak instead discloses that the power relay 30 can be one or more electromechanical relays, or can include a triac-based electronic relay circuit, for example. Column 3, lines 10-12. Zak further discloses that in this embodiment, the switch actuator circuit is a toggle-type flip flop, which changes state (i.e., between "on" and "off") each time it receives a signal from the photosensor 24. Column 3, lines 12-15. Zak further discloses that a simple filter, an input delay circuit or an anti-chatter circuit can prevent unwanted multiple actuations. Column 3, lines 15-17. Zak further discloses that a monostable multivibrator¹ can be used to achieve a timed ON actuation, at the end of which the load device is automatically switched OFF. Column 3, lines 17-20. Zak further discloses that this can also be used for a timed OFF or timed interrupt. Column 3, lines 20-21. Hence, Zak discloses using a monostable multivibrator for preventing unwanted multiple actuations. While Zak teaches that a monostable multivibrator may be used to achieve a timed ON actuation, this is not the same as selectively limiting the time of actuation. Further, the power relay of Zak (Examiner asserts that power relay 30 discloses a timer) does not selectively limit the time of actuation. Neither is there any language in the cited passage that discloses selectively limiting the time of actuation of an apparatus in response to a laser light signal. Thus, Zak does not disclose all of the limitations of claims 1 and 10, and thus Zak does not anticipate claims 1 and 10. M.P.E.P. §2131.

¹ A monostable multivibrator is an electronic circuit that has two states, only one of which is stable. The circuit can be pushed into the unstable state by a control input. The time spent in the unstable state is usually controlled by the charging (or discharging) of a capacitor through a resistor. See definition of monostable multivibrator at wikipedia.org.

As a result of the foregoing, Applicant respectfully asserts that not each and every claim limitation was found within Zak, and thus claims 1 and 10 are not anticipated by Zak. M.P.E.P. §2131.

II. REJECTIONS UNDER 35 U.S.C. §103(a):

The Examiner has rejected claims 2 and 11 under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Applicant's Background. The Examiner has further rejected claims 3 and 12 under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teremy et al. (U.S. Patent No. 5,541,695) (hereinafter "Teremy"). The Examiner has further rejected claims 4-6 and 13-15 under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teremy and in further view of Schwartz (U.S. Patent No. 5,079,646). The Examiner has further rejected claims 7 and 16 under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teetzel (U.S. Patent No. 5,526,749). The Examiner has further rejected claims 8, 9, 17 and 18 under 35 U.S.C. §103(a) as being unpatentable over Kaje (U.S. Publication No. 2003/0122665). Applicant respectfully traverses these rejections for at least the reasons stated below and respectfully requests the Examiner to reconsider and withdraw these rejections.

- A. Claims 2 and 11 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Applicant's Background.
 1. Zak and Applicant's Background, taken singly or in combination, do not teach or suggest the following claim limitations.

Applicant respectfully asserts that Zak and Applicant's Background, taken singly or in combination, do not teach or suggest "an electromechanical feeder operatively associated with the receiver module and adapted to be selectively actuated to release feed in response to detection of the known laser light signal by the receiver module" as recited in claim 2 and similarly in claim 11. The Examiner cites paragraphs [0002] and [0005] of Applicant's Background as teaching the above-cited claim limitation. Paper No. 3, page 3. Applicant respectfully traverses and asserts that Applicant's Background instead teaches that the present invention relates generally to the field of remote actuation systems. [0002]. Applicant's Background

further teaches that two recent approaches to implementing remote actuation are accomplished through the use of radio signal technology and laser signal technology. [0005]. Applicant's Background further teaches that in response to receipt of a radio signal, the receiver produces an actuation signal, which is provided to the desired device, such as an electromechanical feeder apparatus. [0007]. Hence, Applicant's Background teaches an electromechanical feeder apparatus that receives an actuation signal that was produced in response to the receipt of a radio signal. There is no language in Applicant's Background that teaches an electromechanical feeder adapted to be selectively actuated to release feed in response to the detection of the known laser light signal. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 2 and 11, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

2. Examiner has not provided a source of motivation for modifying Zak with Applicant's Background.

In order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. See *In re Dembiczaik*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

The Examiner admits that Zak does not teach an electromechanical feeder operatively associated with the receiver module and adapted to be selectively actuated to release feed in response to detection of the known laser light signal by the receiver module, as recited in claim 2 and similarly in claim 11. Paper No. 3, pages 3-4. The Examiner's motivation for modifying Zak with Applicant's Background to include the above-cited claim limitation is "to provide remote control of devices in an agricultural environment." Paper No. 3, page 4. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner has not presented a source for his motivation for modifying Zak with Applicant's Background. As stated above, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of

ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 1994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that his motivation comes from any of these sources. Applicant respectfully requests the Examiner to particularly point out from which of these sources his motivation comes from. The Examiner appears to be relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 2 and 11. *Id.*

3. Examiner's motivation appears to have been gleaned from Applicant's disclosure.

The Examiner's motivation (provide remote control of devices in an agricultural environment) appears to have been gleaned from Applicant's disclosure, such as in paragraph [0004] of Applicant's Specification. Any judgment on obviousness must not include knowledge gleaned from Applicant's disclosure. *In re McLaughlin*, 170 U.S.P.Q. 209, 212 (C.C.P.A. 1971). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 2 and 11. M.P.E.P. §2145.

4. By modifying Zak with Applicant's Background, the principle of operation of Zak would change.

If the proposed modification or combination of the prior art would change the principle of the operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959). Further, if the proposed modification would render the prior art invention being modified unsatisfactorily for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984). For the reasons discussed below, Applicant submits that by modifying Zak with Applicant's Background, which specifically teaches producing an actuation signal to an electromechanical feed apparatus in response to the receipt of a radio signal, the

principle of operation in Zak would change and subsequently render the operation of Zak to perform its purpose unsatisfactorily.

Zak teaches that a need exists for a remote operator which is highly reliable and simple to use, and which has a strictly local character. Column 1, lines 48-50. Zak further teaches that there is a need for the remote operator to be free from problems that may arise from RF interference or other interference, and can be used for even simple "on"- "off" applications for devices in close proximity to one another. Column 1, lines 52-56. Zak further teaches these problems are overcome by having a remote operator include a laser-actuated photo switch. Abstract.

The Examiner admits that Zak does not teach an electromechanical feeder and cites Applicant's Background for the teaching of such an electromechanical feeder. Paper No. 3, page 3. Applicant's Background specifically teaches that an actuation signal is provided to an electromechanical apparatus in response to the receipt of a radio signal. [0007].

By modifying Zak to incorporate the electromechanical feeder, as taught in Applicant's Background, Zak would be modified to be producing an actuation signal in response to the receipt of a radio signal instead of in response to the receipt of a laser signal. This modification would change the principle of operation of Zak as Zak would no longer be a laser light activation system but a radio activation system. Further, this modification prevents Zak from eliminating the problems that may arise from RF interference or other interference. This was one of the problems that Zak attempted to overcome. Thus, by modifying Zak with Applicant's Background, the principle of operation in Zak would change, and subsequently render the operation of Zak to perform its purpose unsatisfactorily. Therefore, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 2 and 11. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984); *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959).

B. Claims 3 and 12 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teremy.

As stated above, in order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references

themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczaak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

The Examiner admits that Zak does not teach a laser module adapted to produce a known, sparsely modulated laser light signal, as recited in claim 3 and similarly in claim 12. Paper No. 3, page 4. The Examiner modifies Zak with Teremy to include the above-cited claim limitation. Paper No. 3, page 4. The Examiner's motivation for modifying Zak with Teremy to include the above-cited claim limitation is "to provide multiple control signal types for each device to provide additional control of functionality, as taught by Teremy et al. (see Col. 2, line 64 to Col. 3, line 7, Col. 3, line 55 to Col. 4, line 12)." Paper No. 3, page 4. Hence, the Examiner is asserting that the motivation to modify Zak to include the above-cited claim limitation is found at column 2, line 64 to column 3, line 7; and column 3, line 55 to column 4, line 12 of Teremy. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitations. Zak addresses the problem of having a remote operator which is highly reliable and simple to use, and which has a strictly local character. Column 1, lines 48-50. Zak further teaches that there is a need for the remote operator to be free from problems that may arise from RF interference or other interference, and can be used for even simple "on"- "off" applications for devices in close proximity to one another. Column 1, lines 52-56. Zak further teaches these problems are overcome by having a remote operator include a laser-actuated photo switch. Abstract. The laser-actuated photo switch includes a photosensor, which is sensitive to the particular wavelength(s) that characterize the laser beam, and preferably there is a dark filter, that admits only that or those specific wavelength(s), and shields the photosensor from stray ambient radiation so there is no false triggering. Column 3, lines 1-7. The laser-actuated photo switch further includes a switch actuator circuit which is actuated or triggered by the photosensor and has an output connected to a power relay circuit. Column 3, lines 7-10. Zak further teaches activating a lamp. Column 3, lines 48-65.

The Examiner cites column 2, line 64 to column 3, line 7; and column 3, line 55 to column 4, line 12 of Teremy as providing the motivation to modify Zak to include the above-cited claim limitation. Paper No. 3, page 4. Teremy teaches having a relatively bright laser beam which is useful in aiming the remote controller (column 3, lines 55-67) as well as diminishing the brightness of the laser beam (column 4, lines 1-12). Hence, the Examiner's cited motivation teaches controlling the brightness of a laser beam. There is no motivation though for modifying Zak to control the brightness of a laser beam. There is no need to modify Zak to change the brightness of a laser beam, such as a laser beam used to activate a lamp. Zak is only interested in activating a remote device, such as a lamp. Whether the brightness of a laser beam may be changed is immaterial to the purpose or goal of Zak, which is to remotely activate a device that is free from problems that may arise from RF interference or other interference. The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 3 and 12. *Id.*

Further, the Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak with Teremy to include the above-cited claim limitations. Teremy addresses the problems of an infra-red remote controller which include having an emitted infra-red beam that cannot be seen by the picture taker which makes it more difficult to properly aim the remote controller to operate the camera. Column 1, lines 43-56. Teremy further teaches a remote controller that transmits visible laser radiation which is transmitted in a first state for aiming the remote controller at the camera and for controlling at least one controllable mechanism in the camera housing preparatory to the camera recording an image, and which is transmitted in a second state for actuating a camera shutter to record an image. Abstract. The Examiner's motivation ("to provide multiple control signal types") does not address as to why one of ordinary skill in the art would modify Zak (which teaches remotely activating a device that is free from problems that may arise from RF interference or other interference) to have a laser module adapted to produce

a known, sparsely modulated laser light signal, in light of Teremy (which teaches a remote controller that transmits visible laser radiation which is transmitted in a first state for aiming the remote controller at the camera and which is transmitted in a second state for actuating a camera shutter to record an image). The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak with Teremy to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 3 and 12. *Id.*

C. Claims 4-6 and 13-15 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teremy and in further view of Schwartz.

1. Examiner has not provided a source of motivation for modifying Zak and Teremy with Schwartz.

As stated above, in order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. See *In re Dembicza*k, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

The Examiner admits that Zak and Teremy do not teach a telescopic sight operatively associated with the laser module to accommodate selective directing of the known laser light signal though use of the telescopic sight, as recited in claims 4-6, and similarly in claims 13-15. Paper No. 3, pages 4-5. The Examiner modifies Zak and Teremy with Schwartz to include the above-cited claim limitation. Paper No. 3, page 5. The Examiner's motivation for modifying Zak and Teremy with Schwartz to include the above-cited claim limitation is "to increase the accuracy and range for operating the laser module by an operator." Paper No. 3, page 5. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner has not presented a source for his motivation for modifying Zak and Teremy with Schwartz. As stated above, the Examiner must provide some

suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 1994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that his motivation comes from any of these sources. Applicant respectfully requests the Examiner to particularly point out from which of these sources his motivation comes from. The Examiner appears to be relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 4-6 and 13-15. *Id.*

2. Examiner's motivation appears to have been gleaned from Applicant's disclosure.

The Examiner's motivation (increase the accuracy and range for operating the laser module by an operator) appears to have been gleaned from Applicant's disclosure, such as in paragraph [0040] of Applicant's Specification. Any judgment on obviousness must not include knowledge gleaned from Applicant's disclosure. *In re McLaughlin*, 170 U.S.P.Q. 209, 212 (C.C.P.A. 1971). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 4-6 and 13-15. M.P.E.P. §2145.

3. Examiner has not provided objective evidence for modifying Zak and Teremy with Schwartz.

The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. As stated above, Zak addresses the problem of having a remote operator which is highly reliable and simple to use, and which has a strictly local character. Column 1, lines 48-50. Zak further teaches that there is a need for the remote operator to be free from problems that may arise from RF interference or other interference, and can be used for even simple "on"- "off" applications for devices in close proximity to one another. Column 1, lines 52-56. Zak further teaches these problems are overcome by having a remote operator include a laser-actuated photo switch. Abstract. The laser-actuated photo switch includes a photosensor, which is sensitive to the particular

wavelength(s) that characterize the laser beam, and preferably there is a dark filter, that admits only that or those specific wavelength(s), and shields the photosensor from stray ambient radiation so there is no false triggering. Column 3, lines 1-7. The laser-actuated photo switch further includes a switch actuator circuit which is actuated or triggered by the photosensor and has an output connected to a power relay circuit. Column 3, lines 7-10. Zak further teaches activating a lamp. Column 3, lines 48-65.

The Examiner's motivation is to increase the accuracy and range for operating the laser module by an operator. Paper No. 3, page 5. The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. There is no discussion in Zak of there being any problems related to the lack of accuracy or range for operating the laser module. Instead, Zak is interested in remotely activating a device that is free from problems that may arise from RF interference or other interference. Increasing the accuracy or range is immaterial to overcoming these problems. The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 4-6 and 13-15. *Id.*

Further, the Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak with Schwartz to include the above-cited claim limitations. Schwartz addresses overcoming the problems of having an optically reliable mount which is of reasonably low cost and which is universal in application for use to couple optical or electro-optical components. Column 2, lines 28-33. The Examiner's motivation ("to increase the accuracy and range for operating the laser module by an operator") does not address as to why one of ordinary skill in the art would modify Zak (which teaches remotely activating a device that is free from problems that may arise from RF interference or other interference) to have a telescopic sight operatively associated with the laser module to accommodate selective directing of the known laser light signal though use of the telescopic sight, in light of Schwartz (which teaches having an optically reliable mount which is of

reasonably low cost and which is universal in application for use to couple optical or electro-optical components). The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak with Schwartz to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 4-6 and 13-15. *Id.*

D. Claims 7 and 16 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Zak in view of Teetzel.

1. Examiner has not provided a source of motivation for modifying Zak with Teetzel.

As stated above, in order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. See *In re Dembicza*k, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

The Examiner admits that Zak does not teach a detonator operatively associated with the receiver module an adapted to be selectively actuated to detonate in response to detection of the known laser light signal by the receiver module, as recited in claim 7 and similarly in claim 16. Paper No. 3, page 5. The Examiner modifies Zak and Teetzel to include the above-cited claim limitation. Paper No. 3, page 5. The Examiner's motivation for modifying Zak with Teetzel to include the above-cited claim limitation is "to provide remote actuation of an explosive device for accurate detonation." Paper No. 3, page 6. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner has not presented a source for his motivation for modifying Zak with Teetzel. As stated above, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the

reference or to combine reference teachings. *See In re Dembiczaik*, 175 F.3d 1994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that his motivation comes from any of these sources. Applicant respectfully requests the Examiner to particularly point out from which of these sources his motivation comes from. The Examiner appears to be relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7 and 16. *Id.*

2. Examiner has not provided objective evidence for modifying Zak with Teetzel.

The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. As stated above, Zak addresses the problem of having a remote operator which is highly reliable and simple to use, and which has a strictly local character. Column 1, lines 48-50. Zak further teaches that there is a need for the remote operator to be free from problems that may arise from RF interference or other interference, and can be used for even simple "on"- "off" applications for devices in close proximity to one another. Column 1, lines 52-56. Zak further teaches these problems are overcome by having a remote operator include a laser-actuated photo switch. Abstract. The laser-actuated photo switch includes a photosensor, which is sensitive to the particular wavelength(s) that characterize the laser beam, and preferably there is a dark filter, that admits only that or those specific wavelength(s), and shields the photosensor from stray ambient radiation so there is no false triggering. Column 3, lines 1-7. The laser-actuated photo switch further includes a switch actuator circuit which is actuated or triggered by the photosensor and has an output connected to a power relay circuit. Column 3, lines 7-10. Zak further teaches activating a lamp or a ceiling fan. Abstract.

The Examiner's motivation is to provide remote actuation of an explosive device for accurate detonation. Paper No. 3, page 6. The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak to include the

above-cited claim limitation. There is no discussion in Zak of there being any problems related to the lack of accurately detonating an explosive device remotely. Instead, Zak is interested in remotely activating a device that is free from problems that may arise from RF interference or other interference. Providing remote actuation of an explosive device is immaterial to overcoming these problems. The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7 and 16. *Id.*

Further, the Examiner's motivation does not address as to why one of ordinary skill in the art would modify Zak with Teetzel to include the above-cited claim limitations. Teetzel addresses the problem of having a projectile that can be fired from a grenade launcher attached to a rifle or other small arms such as the mortar and, then, can be detonated via signal sent from the grenade launcher. Column 3, lines 26-32. The Examiner's motivation ("to provide remote actuation of an explosive device for accurate detonation") does not address as to why one of ordinary skill in the art would modify Zak (which teaches a laser-actuated photo switch to activate devices such as a ceiling fan or table lamp) to have a detonator operatively associated with the receiver module an adapted to be selectively actuated to detonate in response to detection of the known laser light signal by the receiver module, in light of Teetzel (which teaches having a projectile that can be fired from a grenade launcher attached to a rifle or other small arms such as the mortar and, then, can be detonated via signal sent from the grenade launcher). The Examiner must provide objective evidence as to why one of ordinary skill in the art would modify Zak with Teetzel to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7 and 16. *Id.*

E. Claims 8, 9, 17 and 18 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Kaje.

1. Kaje does not teach or suggest the following claim limitations.

Applicant respectfully asserts that Kaje does not teach or suggest "a laser light actuation system for remotely and selectively actuating a function of a known electromechanical gate" as recited in claim 8 and similarly in claim 17. The Examiner cites claim 1, line 2 of Kaje as teaching the above-cited claim limitation. Paper No. 3, page 6. Applicant respectfully traverses and asserts that Kaje instead teaches remotely activating a doorbell. The Examiner must provide a basis in fact and/or technical reasoning to support his interpretation that remotely activating a doorbell is equivalent to actuating an electromechanical gate. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990); *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). Instead, the Examiner is simply relying upon his own subjective opinion which is insufficient to establish a *prima facie* case of obviousness in rejecting claims 8 and 17. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Applicant further asserts that Kaje does not teach or suggest "selectively produce an actuation signal in response to the known laser light signal to selectively actuate such an electromechanical gate operatively associated with the laser receiver module" as recited in claim 8 and similarly in claim 17. The Examiner cites lines 4-7 of the Abstract, paragraph [0017] and lines 1-5 of claim 1 of Kaje as teaching the above-cited claim limitation. Paper No. 3, page 6. Applicant respectfully traverses and asserts that Kaje instead teaches a sensor that has multiple settings which control operation of the doorbell such that any, specified, or no remote devices may operate the doorbell depending on the setting that is selected on the sensor. Abstract. Kaje further teaches a sensor means connected to a doorbell, where the sensor means receives a coded laser beam signal and upon receiving the signal, causes activation of the doorbell. Claim 1. Hence, Kaje teaches activating a doorbell upon receipt of a laser beam signal. The Examiner must provide a basis in fact and/or technical reasoning to support his interpretation that remotely activating a doorbell is equivalent to actuating an electromechanical gate. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990); *In re Robertson*, 169 F.3d 743, 745, 49

U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). Instead, the Examiner is simply relying upon his own subjective opinion which is insufficient to establish a *prima facie* case of obviousness in rejecting claims 8 and 17. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

2. Applicant challenges Official Notice with respect to claims 8 and 17

The Examiner acknowledges that Kaje does not teach the limitation of "wherein the laser receiver module is adapted to be positioned in use in a selectively concealed location known to a user" as recited in claim 8 and similarly in claim 17. Paper No. 3, page 6. The Examiner states:

It is well known in the art to conceal a security device in a location only known to individuals who are permitted entry, to prevent tampering of the device and the knowledge of the existence of the device in defeating the security device. Paper No. 3, page 6.

Applicant respectfully traverses the implied assertion that it is well known in the art to have a laser receiver module adapted to be positioned in use in a selectively concealed location known to a user. Applicant respectfully requests the Examiner to provide a reference that teaches having a laser receiver module adapted to be positioned in use in a selectively concealed location known to a user pursuant to M.P.E.P. §2144.03.

3. Examiner has not provided a source of motivation for modifying Kaje to include the missing limitation of claims 8 and 17.

As stated above, the Examiner admits that Kaje does not teach the limitation of "wherein the laser receiver module is adapted to be positioned in use in a selectively concealed location known to a user" as recited in claim 8 and similarly in claim 17. Paper No. 3, page 6. The Examiner states that it would have been obvious to modify Kaje to include the above-cited claim limitation "to increase the security of the secured areas by preventing authorized individuals from having knowledge of the security device and tampering with it." Paper No. 3, page 7. The Examiner is reminded that in order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references themselves, the

knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that his motivation comes from any of these sources. Applicant respectfully requests the Examiner to particularly point out from which of these sources his motivation comes from. The Examiner appears to be relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 8 and 17. *Id.*

4. Claims 9 and 18 are patentable over Kaje for at least the reasons that claim 8 and 17 are patentable over Kaje.

Claim 9 depends from independent claim 8 and hence is patentable over Kaje for at least the reasons that claim 8 is patentable over Kaje as discussed above. Further, claim 18 depends from independent claim 17 and hence is patentable over Kaje for at least the reasons that claim 17 is patentable over Kaje as discussed above.

5. Applicant challenges Official Notice with respect to claims 9 and 18.

The Examiner acknowledges that Kaje does not teach the limitation of "a radio module adapted to produce a known radio signal; and a radio receiver module adapted to receive and detect the known radio signal and selectively product an actuation signal in response to the known radio signal to selectively actuate a barrier device operatively associated with the radio receiver module and adapted to be selectively actuated in response to the detection of the known radio signal by the radio receiver module in order to enable the laser receiver module to receive the known laser light signal" as recited in claim 9 and similarly in claim 18. Paper No. 3, page 7. The Examiner states:

It is well known in the art to utilize multiple barrier gates and provide separate modes of identification for entry for each barrier gate in high-security areas, to prevent unauthorized entry, and it is well known in the art to utilize radio modules and receivers to actuate barrier devices (such as in garage door or entry gate openers). Paper No. 3, page 7.

Applicant respectfully traverses the implied assertion that it is well known in the art to have a radio module adapted to produce a known radio signal; and to have a radio receiver module adapted to receive and detect the known radio signal and selectively product an actuation signal in response to the known radio signal to selectively actuate a barrier device operatively associated with the radio receiver module and adapted to be selectively actuated in response to the detection of the known radio signal by the radio receiver module in order to enable the laser receiver module to receive the known laser light signal. Applicant respectfully requests the Examiner to provide a reference that teaches the above-cited claim limitation pursuant to M.P.E.P. §2144.03.

6. Examiner has not provided a source of motivation for modifying Kaje to include the missing limitations of claims 9 and 18.

As stated above, the Examiner admits that Kaje does not teach the limitation of "a radio module adapted to produce a known radio signal; and a radio receiver module adapted to receive and detect the known radio signal and selectively product an actuation signal in response to the known radio signal to selectively actuate a barrier device operatively associated with the radio receiver module and adapted to be selectively actuated in response to the detection of the known radio signal by the radio receiver module in order to enable the laser receiver module to receive the known laser light signal" as recited in claim 9 and similarly in claim 18. Paper No. 3, page 7. The Examiner states that it would have been obvious to modify Kaje to include the above-cited claim limitation "to provide higher levels of authorization protection for high-security areas and reduce the risk of unauthorized intrusion, with each successive entry point enabled only upon successful passage from the previous entry point." Paper No. 3, pages 7-8. The Examiner is reminded that in order to establish a *prima facie* case of obviousness, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczaik*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that his motivation comes from any of these sources.

Applicant respectfully requests the Examiner to particularly point out from which of these sources his motivation comes from. The Examiner appears to be relying upon his own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 9 and 18. *Id.*

7. Examiner has not provided objective evidence for modifying Kaje to include the missing limitations of claims 9 and 18.

The Examiner's motivation ("to provide higher levels of authorization protection for high-security areas and reduce the risk of unauthorized intrusion, with each successive entry point enabled only upon successful passage from the previous entry point") does not address as to why one of ordinary skill in the art would modify Kaje to include the limitations of claims 9 and 18. Kaje addresses the problem of reducing the use of alternative means, such as using an automobile horn, to get the attention of people who are inside a house thereby eliminating this type of undesirable noise from neighborhoods. Column 3, lines 8-12. Kaje teaches a remote control device that when actuated by a user transmits a visually perceptible coded signal to a sensor associated with a doorbell which receives the signal and causes activation of the doorbell. Abstract.

The Examiner's motivation is to provide higher levels of authorization protection for high-security areas and reduce the risk of unauthorized intrusion, with each successive entry point enabled only upon successful passage from the previous entry point. Paper No. 3, pages 7-8. The Examiner's motivation does not address as to why one of ordinary skill in the art would modify Kaje to include the above-cited claim limitations. There is no discussion in Kaje of there being any problems related to providing higher levels of authorization protection for high-security areas and reducing the risk of unauthorized intrusion. Instead, Kaje is interested in eliminating undesirable noise from neighborhoods that was previously used to get the attention of people who are inside a house. Providing higher levels of authorization protection for high-security areas and reducing the risk of unauthorized intrusion is immaterial to overcoming these problems. The Examiner must provide objective evidence as to

why one of ordinary skill in the art would modify Kaje to include the above-cited claim limitation. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). The Examiner has not provided such objective evidence. Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 9 and 18. *Id.*

II. CONCLUSION

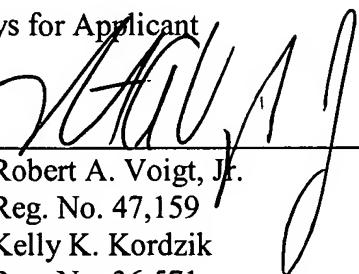
As a result of the foregoing, it is asserted by Applicant that claims 1-18 in the Application are in condition for allowance, and Applicant respectfully requests an allowance of such claims. Applicant respectfully requests that the Examiner call Applicant's attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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